IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR. H.L.DATTU

and

THE HONOURABLE MR. JUSTICE K.T. SANKARAN

FRIDAY, THE 13TH JULY, 2007/22ND ASHADHA 1929

W.P(C) No.20885 of 2007

Petitioner:

M/S. COCHIN CEMENTS LTD., 8/1072,
MEVELLOOR P.O., KOTTAYAM DISTRICT
REPRESENTED BY ITS AUTHORISED SIGNATORY,
V.P.SHARMA.

BY ADV. SRI. JOSEPH VELLAPPALLY (SR.)
SRI.V.P. SUKUMAR,
& SRI. S.ANILKUMAR (TRIVANDRUM),

Respondents/Respondents:

1. THE ASSISTANT COMMISSIONER (ASSMT),
SPECIAL RANGE, COMMERCIAL TAXES,
KOTTAYAM.

2. THE DEPUTY COMMISSIONER, COMMERCIAL TAXES,
KOTTAYAM.

3. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM.

BY SR. GOVT. PLEADER SHRI MOHAMMED RAFIQ.

This Writ Petition (C) having come up for admission on 13/07/2007, the Court on the same day delivered the following:

DK.

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.P.(C) No. 20885 OF 2007

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Dated this the 13th July, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The subject matter of this writ petition is under the provisions of the Kerala General Sales Tax Act. The assessment year in question is 2001-02. In this Writ Petition, the petitioner calls in question the legality or otherwise of a the show cause notice issued by the respondents for the purpose of re-assessment.

2. We do not intend to entertain this Writ Petition, for the reason, what is questioned by the petitioner in this petition is a show cause notice issued by the respondent, assessing authority, inter alia directing the petitioner to show cause why the re-assessment proceedings should not be initiated and completed, since in its opinion the whole or part of the turnover of the dealer for the assessment year 2001-2002 has escaped assessment to tax. In matters of this nature, the High Court can exercise its jurisdiction, only when a question of infringement of fundamental right arises or where on the undisputed facts the taxing authorities are shown to have assumed jurisdiction which they do not possess. We do not find these elements in the pleadings filed before this court.

3. In that view of the matter, without going into the details of the subject matter of this Writ Petition, it is rejected. I.A.No. 9531 of 2007 is also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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